

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division



UNITED STATES OF AMERICA)

v.)

BRIAN PATRICK BAYNES,)

Defendant.)

Case No. 1:19-mj- 260

UNDER SEAL

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT
AND ARREST WARRANT

I, Michael Bauknight, a Special Agent with the Federal Bureau of Investigation, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"), and have been so employed since July 2017. Prior to my work with the FBI, I worked in law enforcement as a Maryland State Trooper for five years. Prior to leaving the Maryland State Police, I was in the Criminal Enforcement Division – Central South Region which specializes in narcotic and non-narcotic crimes across six counties in the State of Maryland and is partnered with Homeland Security Investigations ("HSI"). I hold a dual Bachelor Degree in Criminal Justice/Criminology and Psychology. Additionally, I have received specialized training from the FBI and Maryland State Police relevant to the investigation of narcotics, weapons, and computer-related crimes, to include computer forensics training. I have experience and specialized training related to the collection of narcotics, weapons, and computer-related evidence, and have personally participated in search warrants involving the search and seizure of weapons, narcotics, and computer-related equipment. As a federal agent, I am authorized to investigate violations of laws of the United

States Code, and as a law enforcement officer I am authorized to execute warrants issued under the authority of the United States.

2. This affidavit is in support of a criminal complaint charging BRIAN PATRICK BAYNES, on or about June 3, 2018, in the Eastern District of Virginia, with possessing a firearm while being an unlawful user of or addicted to any controlled substance, in violation of Title 18, United States Code, Section 922(g)(3).

3. The facts of this affidavit come from my personal observations, training and experience, legal processes, and from information obtained through other agents, and witnesses. Since this affidavit is being submitted for the limited purpose of establishing sufficient probable cause for the requested warrant, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause for the issuance of the arrest warrant requested herein.

PROBABLE CAUSE

4. Based on a review of BAYNES' firearms transactions records, I have determined that BAYNES purchased firearms on June 3, 2018 and November 3, 2018. On June 3, 2018, BAYNES purchased a Sturm Ruger & Co .22 long rifle, bearing serial number 0012-05848, from Cabelas in Gainesville, Virginia, within Prince William County, in the Eastern District of Virginia. On November 3, 2018, BAYNES purchased a BCM4 Lower Receiver, bearing serial number A045643, from Green Top Sporting Goods in Ashland, Virginia, within Hanover County, in the Eastern District of Virginia. On June 2, 2019, BAYNES attempted to purchase a Glock 43, 9mm from Vienna Arsenal, in Vienna, Virginia.

5. In purchasing these firearms, BAYNES completed necessary forms provided by the United States Department of Justice's Bureau of Alcohol, Tobacco, Firearms, and Explosives

(“ATF”). In particular, BAYNES completed and signed an ATF Form 4473 for each sale. Form 4473 includes Question E, which reads: “Are you an unlawful user or addicted to marijuana or any depressant, stimulant, narcotic drug, or any other controlled substance? Warning: The use or possession of marijuana remains unlawful under Federal law regardless of whether it has been legalized or decriminalized for medicinal or recreational purposes in the state where you reside.” In response to Question E, BAYNES checked “no” on both the June 3, 2018 and November 3, 2018 Form 4473s. BAYNES certified that his answers were true and that he was aware that a false answer was punishable as a felony under federal law.

6. In April 2019, the FBI Washington Field Office conducted phone exploitation pursuant to a federal warrant wherein analysts discovered text messages between the phone owner (“Phone Owner”) and phone number 410-xxx-2390 (“Phone Number 2390” or “BAYNES”), which appears to be associated with BAYNES, discussing narcotics activity.

7. Phone Number 2390 appears to be associated with BAYNES for several reasons. First, BAYNES’ United States Passport Application Form, dated in or about May 2018, lists Phone Number 2390 as BAYNES’ cell phone number. Second, BAYNES listed Phone Number 2390 on the June 2, 2019 ATF Form 4473 that he filled out when attempting to purchase a when firearm. Third, Leasing documents for 12111 Polo Drive Apartment 104, Fairfax, VA 22033, which BAYNES signed in or about March 2019, show that BAYNES listed Phone Number 2390 as his contact number. Finally, Phone Number 2390 was saved in Phone Owner’s contact list as, “Brian VanAM.”

8. During the April 2019 exploitation of Phone Owner, analysts observed text messages between Phone Owner and BAYNES that appeared to be discussions involving narcotic activity.

- a. On June 25, 2018, BAYNES texted Phone Owner: “Shiiiiet my boy was selling carts for \$20 yesterday but I didn’t even see the Snapchat.” Based on my training, knowledge, and experience, “carts” are tetrahydrocannabinol (“THC”) oil cartridges used for vape pens.
- b. On June 26, 2018, BAYNES texted Phone Owner: “And it’s gonna be a little less than a zip. I’ll make it even cheaper for you.” Based on my training, knowledge, and experience, “zip” is slang for an ounce of a drug, usually marijuana.
- c. On June 26, 2018, BAYNES texted Phone Owner: “Lemme get home imma weigh it. And grind some for myself. Yeah rofl.”
- d. On July 11, 2018, Phone Owner texted BAYNES: “You have the absolute worst drug dealers of all time.”

9. On May 19, 2018, Phone Owner texted BAYNES: “Hit me up on Wire.” Shortly after the May 19, 2018 text message exchange, analysts observed the Phone Owner began a conversation with a “Brian” on a text-based communications application called, “Wire.” Conversations between Phone Owner and Brian related to narcotics activity continued.

- a. On May 21, 2018, Brian texted Phone Owner: “I gave him the one with more caps but it was still majority stems.” Based on my training, knowledge, and experience, “caps” and “stems” refers to different parts of illegal hallucinogenic mushrooms.
- b. On May 22, 2018, Phone Owner texted Brian: “Do you have any demand for the vape juice?” Brian responded, “Vape juice?” Phone Owner replied, “That shit you always carryin around with you.” Brian responded, “Carts . . . That’s

what everyone calls em . . . Or distily . . . Distillate**.” Based on my training, knowledge, and experience, “Distillate” is another term for distilled, concentrated THC oil, frequently used in marijuana vape pens. Based on the context of the aforementioned text messages, and from my training, knowledge, and experience, I believe “carts” are “vape pen” cartridges that contain THC oil, the main psychoactive ingredient in marijuana.

- c. On May 22, 2018, Phone Owner texted Brian: “Okay but how much distillate comes in one of these cartridges?” Brian responded, “Varries. 500mg usually. Recent ones I had were 1g.”
- d. On May 24, 2018, Brian texted Phone Owner: “ROFL bro as soon as I copped my first cart I went from occasional user to daily all day even at work most of the time. . . . So I’m stopping carts for now. . . . I will once ik what my next jobs DT policy is.”
- e. On May 24, 2018, Brian texted Phone Owner: “I’m sold on microdosing psilocybin.” Based on my training, knowledge, and experience, “psilocybin” refers to a type of illegal hallucinogenic mushroom.
- f. On May 24, 2018, Brian texted Phone Owner: “Use fake pee like everyone else. . . . So easy.”

10. In other text messages, BAYNES also discussed psilocybin “shrooms,” a controlled dangerous substance. Many of their conversations concerning illegal drug use occurred in May and June of 2018, around the time BAYNES completed the first ATF Form 4473, as discussed above.

11. Based on my training and experience, I know that the firearms discussed in this affidavit constitute firearms, pursuant to Title 18, United States Code, Section 921(a)(3), were not manufactured in the Commonwealth of Virginia and, therefore, the firearms traveled in, and/or affected interstate commerce.

CONCLUSION

12. Based on my training and experience, and the information provided in this affidavit, I respectfully submit that there is probable cause to believe that on or about June 3, 2018, BAYNES, an unlawful user of a controlled substance, possessed a firearm while being an unlawful user of or addicted to any controlled substance, in violation of Title 18, United States Code, Section 922(g)(3).

I declare under penalty of perjury that the statements above are true and correct to the best of my knowledge and belief.



Michael Bauknight
Special Agent
Federal Bureau of Investigation

Sworn and subscribed to before me this 5th day of June, 2019.



/s/ _____
Ivan D. Davis
United States Magistrate Judge